

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

RICHARD BAGGETT,
Petitioner,

v.

DOUG DRETKE,
Respondent.

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CIVIL ACTION NO. H-06-2022

MEMORANDUM OPINION AND ORDER ON DISMISSAL

Petitioner Richard Baggett, a state inmate, seeks habeas corpus relief under 28 U.S.C. § 2254 to challenge his 1989 conviction for aggravated sexual assault. A review of the court records for the United States District Court for the Southern District of Texas shows that petitioner filed a federal habeas petition challenging this conviction in *Baggett v. Cockrell*, C.A. No. H-01-0616 (S.D. Tex.), which was denied on November 12, 2001. Petitioner filed a second federal habeas petition challenging the conviction in *Baggett v. Dretke*, C.A. No. H-05-1277 (S.D. Tex.), which was deemed an unauthorized successive petition and transferred to the Fifth Circuit Court of Appeals on July 15, 2005. Records for the Fifth Circuit show that the case was dismissed on October 28, 2005, for want of prosecution.


Records for the Fifth Circuit further show that on March 10, 2006, petitioner filed a motion for authorization to file a successive habeas petition challenging the 1989 conviction. *In re: Richard Baggett*, No. 06-20170. By order dated May 3, 2006, the Fifth Circuit denied petitioner's motion and warned him that he may be sanctioned for filing additional groundless motions for successive habeas petitions.

A district court may hear a claim not presented in a prior federal application only if the court of appeals issues an order of authorization. 28 U.S.C. § 2244(b)(3). Any claim that was raised in a prior federal habeas application is not subject to adjudication by the district court and must be dismissed. 28 U.S.C. § 2244(b)(1). This Court notes that the habeas grounds raised by petitioner in *In re: Richard Baggett*, No. 06-20170, are the same as those raised in the instant petition. Accordingly, petitioner was denied authorization to raise these grounds by successive petition. To the extent petitioner now raises habeas grounds not presented in *Baggett*, he fails to show authorization from the Fifth Circuit to pursue this successive habeas.

Accordingly, this action is **DISMISSED** without prejudice to seeking authorization from the court of appeals to proceed on any new claims. A certificate of appealability is **DENIED**. Any and all pending motions are **DENIED AS MOOT**.

The Clerk will provide a copy to the parties.

Signed at Houston, Texas, on this the 19th day of June, 2006.



KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE